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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,034

11/18/2003

Thomas Monden

DT-6661

5563

30377

7590

03/24/2005

EXAMINER

GREEN, CHRISTY MARIE

DAVID TOREN, ESQ.

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NEW YORK, NY 10019-6018

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,034

Applicant(s)

MONDEN ET AL.

Examiner

Christy M Green

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/17/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Exhibit A: attached figure (1).

DETAILED ACTION

This is a first office action for serial number 10/716034, entitled Sealing System, filed on November 18, 2003.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4 and 9, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase actually are a part of the claimed invention or if they are not. The examiner will interpret the claims as best understood until further clarification is made with these limitations.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Gohlke, US Patent # 6,029,412.

Gohlke discloses the claimed invention a sealing system (2) comprising at least one sealing means (4) and at least two support members (24, 26, 28), wherein each

support member has a fastening section (15, 17, 19) and at least two sleeve sections and engagement means (34 – figure 1) are provided on at least one sleeve section (8).

Claim 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Porter, US Patent # 6,725,615.

Porter discloses the claimed invention a support member (figure 10) having a first arm (54) with a fastening section (56) and at least one second arm (52) with a sleeve section (62) and a further sleeve section (62) is arranged on at least one side of the second arm (at 61); a support section (120 – attached figure 6) oriented vertical to the sleeve section (130 – figure 16) is provided on a free end of at least one of the sleeve sections (attached figure 16); an engagement means (32 or 131); the engagement means 9131 or 32 – figure 5) are formed on at least one of the sleeve segments 920 – figure 5) and the engagement means can be brought into engagement with the object to be attached (28 – column 6, lines 43-45); the sleeve sections (121, 130) are connected in a hingelike fashion (by 122); and the support member (100) is manufactured out of sheet metal as one of a punched part (columns 8, lines 1-2) and a bent part (103).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gohlke in view of Charland et al., US Patent # 5,452,551.

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Gohlke discloses the claimed invention as stated above in claim 1, including an inlay of intumescent material (36) and the sealing means (4) can be wrapped around the conduit (42).

Gohlke does not disclose a fabric tape and the sealing means can be cut to length. Charland teaches that it is known in the art to provide an adhesive tape which an intumescent ring (102) may be fastened to (column 3, lines 64-68 and column 4, lines 1-3); as well as, the collar was cut (column 7, lines 26-27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an adhesive tape for the intumescent material and to cut the sealing system to length as taught by Charland with the sealing system of Gohlke in order to compress the ring against the pipe and provide a suitable adhesive for the intumescent material (column 3, lines 64-68) and to allow the sealing system to fit around the pipe (column 7, lines 26-27).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gohlke in view of Charland et al., and further in view of Porter.

Gohlke in view of Charland discloses the claimed invention as stated above, except for a hinge provided between the sleeve section. Porter teaches that it is known in the art to provide a hinge (25, 52) between the sleeve section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hinge between the sleeve section as taught by Porter with the system of Gohlke in view of Charland in order to provide regular intervals along the length so that

the strip may be bent to form the shape around the service line (or pipe/conduit – column 8, lines 65-68 and column 9, lines 1-3).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cg
March 17, 2005



Carl D. Friedman
Supervisory Patent Examiner
Group 3600

